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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,511	04/06/2005	James R. Howarth	HOW1.005-US	5770
3775 7590 08/16/2010 ELMAN TECHNOLOGY LAW, P.C. P. O. BOX 209 SWARTHMORE, PA 19081				
EXAMINER				
MERCEDES, DISMERY E				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
08/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,511

Applicant(s)

HOWARTH ET AL.

Examiner

DISMERY E. MERCEDES

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-43, 46-48 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-43, 46-48, 51 and 52 is/are rejected.
- 7) ☒ Claim(s) 53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 41-43, 46-48, 51-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkinson (US 5,218,486).

As to Claim 41, Wilkinson discloses a method of providing an improved audio reproduction derived from an analog recording, the method comprising: digitizing wideband playback signal an analog recording containing wow/flutter (fig.3, col.6, lines 10-15); deriving, without use of a prescribed tone or time-code previously applied and intended to be indicative of timing, a reference signal from within the digitized wideband playback signal, the reference signal being an extraneous artifact within the recording (col.3, lines 35-48;); generating a modulated carrier by at least one of stabilizing, idealizing, and demodulating the reference signal (col.3, lines 63-65; col.5, lines 5-16); deducing deviations between the modulated carrier and a high precision clock signal or sampling rate; adjusting timing and pitch in the digitalized wideband playback signal in response to the deduced deviations, wherein such adjusting comprises establishing a change in a period of the reference signal, then conforming the timing and pitch of the digitized wideband playback signal to the modulated carrier, thereby producing a wideband playback signal substantially corrected for distortion corresponding to said wow/flutter (col.5, lines 64-col.6, line 35; col.8, lines 3-25).

As to Claim 42, Wilkinson further discloses, wherein the reference signal is generated by identifying a reference sound entity which can be derived from the analog recording; and wherein the modulated carrier is generated from a known or preestablished pattern within

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the reference sound entity (col.5, lines 56-67; col.6, lines 51-55; col.8, lines 46-66; col.9, lines 10-25).

As to Claim 43, Wilkinson further discloses determining a set of data reflecting at least one instantaneous deviation between a nominal intermediate frequency and the reference signal; and generating a modulated carrier that reflects the at least one instantaneous deviation (col.8, lines 46-66; col.9, lines 45-col.10, line 15; figs.3 and 11).

As to Claim 46, Wilkinson further discloses, wherein the reference signal is derived from a bias signal present in the analog recording playback (See fig.3).

As to Claim 47, Wilkinson further discloses extracting a reference sound element which can be derived from the wideband analog recording; determining a deviation between a high-precision clock signal or sampling rate and a pre-established sound pattern for the reference sound element; and adjusting sound frequencies and timing in the digital domain in accordance with the deviation (col.6, lines 1-25; figs.3-4b and respective description thereof).

As to Claim 51, Wilkinson further discloses an electronically readable storage medium, other than a transitory signal, containing data representing digital audio information which has been generated by the method of claim 41 (fig.3).

As to Claim 52, Wilkinson further discloses the electronically readable storage medium of claim 51, wherein the medium is an optical disk, a memory card, or a digital audio tape cassette (see fig.3).

Allowable Subject Matter

2. Claims 53 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schwartz et al. (US 4,535,368); De Mey et al. (US 6,603,820); Winslow et al. (US 4,353,089); Mori et al. (US 5,189,578).

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISMERY E. MERCEDES whose telephone number is (571) 272-7558. The examiner can normally be reached on Monday - Friday, from 7:00am - 3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Thi Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dismery E. Mercedes/
Primary Examiner, Art Unit 2627